

Message Text

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ACTION EA-10

INFO OCT-01 ISO-00 COME-00 OPIC-03 SP-02 AID-05 EB-07

NSC-05 CIEP-01 TRSE-00 SS-15 STR-01 OMB-01 CEA-01

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R 111243Z FEB 75

FM AMEMBASSY BANGKOK

TO SECSTATE WASHDC 700

LIMITED OFFICIAL USE BANGKOK 2441

E. O. 11652: N/A

TAGS: EMIN, EINV, TH

SUBJ: TEMCO CONTROVERCY

REF : A. BANGKOK 0227; B. BANGKOK 1430

PASS COMMERCE & OPIC

1. THE CAMPAIGN TO FORCE REVOCATION OF TEMCO'S TIN CONCESSION HAS PICKED UP SINCE REFTTEL B. TEMCO HAS GIVEN THE EMBASSY A COPY OF THE AGREEMENT REACHED WITH THE GOVERNMENT ON DECEMBER 30 AND REPORTED IN REFTTEL A. THE AGREEMENT, SIGNED BY MINISTER OF INDUSTRY, ARUN SORATHET, INCLUDES THE FOLLOWING:

"THE MINISTRY OF INDUSTRY CONFIRMS THAT THE MINING LEASES WERE VALIDLY ISSUED AND SUBSEQUENTLY VALIDLY TRANSFERRED TO THAILAND EXPLORATION AND MINING COMPANY, LTD. CONSEQUENTLY, AS LONG AS THAILAND EXPLORATION AND MINING COMPANY, LTD., DULY COMPLIES WITH THE PROVISIONS OF THE MINERALS ACT IN ALL RESPECTS THE COMPANY SHALL RETAIN THE RIGHT IN THE MINING LEASES UNDER THE MINERALS ACT AND SUCH MINING LEASES SHALL NOT BE REVOKED BY THE MINISTRY OF INDUSTRY..."

THE STATEMENT WENT ON TO SAY THAT THE MINISTRY OF INDUSTRY CONSIDERS THAT THE AGREEMENT "WAS REACHED ON THE LIMITED OFFICIAL USE

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BASIS OF FAIRNESS TO BOTH PARTIES" AND THAT TEMCO "HAS

OPERATED HONESTLY ALL THE TIME."

2. WITHIN TWO WEEKS AFTER THIS AGREEMENT, THE CABINET REFERRED TO THE PUBLIC PROSECUTOR'S OFFICE THE QUESTION OF WHETHER THERE HAD BEEN ILLEGALITY IN THE GRANTING OF THE CONCESSION OR IN TEMCO'S SUBSEQUENT OPERATIONS (REFTEL B). THE CABINET ACTED IN RESPONSE TO ATTACKS ON THE AGREEMENT BY THE NATIONAL STUDENT CENTER OF THAILAND, ELEMENTS OF THE PRESS, AND THE GOVERNOR OF PHANG NGA, THAWAT MOKKARAPHONG. THE PUBLIC PROSECUTOR HAS SO FAR NOT REPORTED ITS FINDINGS.

3. THE ANTI TEMCO CAMPAIGN UNTIL LAST WEEK SEEMS AIMED AT FORCING ACTION BY THE OUTGOING SANYA GOVERNMENT. IT NOW SEEMS DIRECTED AT FACING THE NEW GOVERNMENT WITH A DECISION ON TEMCO AS ONE OF ITS FIRST CHALLENGES. SPEAKERS AT BANGKOK DEMONSTRATIONS ON FEBRUARY 7 CONNECTED THE NEWLY-ELECTED SPEAKER OF THE HOUSE, PRASIT KANCHANAWAT (2166), WITH THE ORIGINAL THAI COMPANY INVOLVED IN THE TRANSFER OF THE CONCESSION TO TEMCO IN WHAT THEY CHARGE WAS A CORRUPT TRANSACTION. (PRASIT WAS ONE OF THE PROMOTERS OF THE ORIGINAL THAI COMPANY, WHICH INCLUDED, AMONG ITS SHAREHOLDERS EXILED FORMER PRIME MINISTER THANOM KITTIKACHON AND DEPUTY PRIME MINISTER PRAPHAT CHARUSATHIAN.

4. THE CAMPAIGN TO FORCE THE GOVERNMENT TO CANCEL THE CONCESSION CONTINUES UNABATED ON UNIVERSITY CAMPUSES IN BANGKOK, BUT ATTEMPTS TO STAGE STUDENT DEMONSTRATIONS IN CHIANGMAI, HAT YAI, AND NAKHON SI THAMMARAT HAVE FAILED TO GENERATE ANY INTEREST OR ENTHUSIASM.

5. TEMCO, WHICH HERETOFORE FOLLOWED A POLICY OF AVOIDING PUBLIC RESPONSE TO THE CAMPAIGN HAS NOW CHANGED COURSE AND MOVED TO PRESENT THEIR SIDE OF THE CASE. NEWSPAPERS ON FEBRUARY 11 CARRIED A RELEASE BY TEMCO GIVING A REVIEW OF ITS OPERATING HISTORY, INCLUDING PRODUCTION, ROYALTIES AND TAXES PAID TO THE GOVERNMENT, EARNINGS DATA, AND PROJECTIONS OF EARNINGS DISTRIBUTION IN THE FUTURE. THE ACCOUNT IS A CONVINCING ONE AND SHOULD HELP THE COMPANY WITH THOSE THAI WHO ARE INTERESTED IN THE FACTS.

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6. PREVIOUS TO THE PRESS RELEASE, THE COMPANY HAD GIVEN THE EMBASSY COPIES OF ITS OPERATING HISTORY WHICH WE PASSED ON TO INTERESTED GOVERNMENT OFFICIALS. THE AMBASSADOR GAVE A COPY OF THE MATERIAL TO DR. PUAJ, WHO LAST MONTH CALLED FOR A REVOCATION OF THE CONCESSION. (IT WAS DISTRESSING, BUT NOT SURPRISING, THAT DR. PUAJ, WHO HAS BEEN A MENTOR OF THAMMASAT STUDENTS SPEARHEADING THE

ATTACK ON THE COMPANY, DID NOT EVEN KNOW THAT IT WAS 50 PERCENT DUTCH-OWNED.) THE AMBASSADOR ALSO DISCUSSED THE IMPLICATIONS OF REVOKING THE CONCESSION WITH DR. SANO UNAKUN OF NESDB, POINTING OUT THAT SUCH ACTION COULD MAKE THAILAND INELIGIBLE FOR PREFERENCES UNDER THE NEW TRADE ACT. OFFICIALS AT THE MINISTRY OF FOREIGN AFFAIRS AND COMMERCE WERE ALSO CONTACTED TO ENABLE THE EMBASSY TO EXPRESS CONCERN.

7. RESPONSIBLE OFFICIALS IN THE BUREAUCRACY CLEARLY RECOGNIZE THAT REVOCATION COULD HAVE SERIOUS EFFECTS IN DISCOURAGING FOREIGN INVESTMENT, IN MAKING RATIONAL DEVELOPMENT OF MINERAL RESOURCES MORE DIFFICULT, AND IN MAKING THAILAND INELIGIBLE FOR TRADE PREFERENCES. DECLARING THAILAND INELIGIBLE FOR TARIFF PREFERENCES, BESIDES ITS ECONOMIC EFFECTS, COULD BE A BLOW AT THAI-AMERICAN RELATIONS IN GENERAL, SPILLING OVER INTO A WHOLE RANGE OF ISSUES BETWEEN THE TWO COUNTRIES.

8. RATIONAL ECONOMIC ARGUMENTS MAY NOT BE CONTROLLING SINCE THE ISSUE HAS NOW BECOME INVOLVED IN MACHINATIONS OVER THE FORMATION OF THE NEW GOVERNMENT. THE ISSUE WILL PROBABLY NOT DIE DOWN UNTIL THE GOVERNMENT EITHER REVOKES THE CONCESSION OR STRONGLY REAFFIRMS ITS LEGALITY.

9. FRANK GILLESPIE, UNION CARBIDE'S ATTORNEY AND PARENT COMPANY OFFICIAL DEALING WITH TEMCO AFFAIRS FOR SOME YEARS, HAS BEEN GUIDING PUBLIC RELATIONS CAMPAIGN HERE OVER PAST TWO WEEKS. HE CONTENDS TEMCO WILL SUE IF CONCESSION REVOKED BUT HE HOPES NEW GOVERNMENT WILL REAFFIRM MINISTER OF INDUSTRY'S ASSURANCE OF CONCESSION VALIDITY. PRESS CAMPAIGN AND DISCREET PLACEMENT OF FACTS WITH KEY THAI OFFICIALS WITH EMBASSY ASSISTANCE SHOULD HELP TO DEFUSE THREAT. GILLESPIE IS NOW EN ROUTE NEW YORK
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FEELING HE HAS DONE ALL HE CAN FOR MOMENT.
KINTNER

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NNN

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